

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**Michigan Head and Spine Institute  
Petitioner**

**v**

**File No. 21-1804**

**Member Select Insurance Company  
Respondent**

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**Issued and entered  
this 11<sup>th</sup> day of February 2022  
by Sarah Wohlford  
Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On December 3, 2021, Michigan Head and Spine Institute (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Member Select Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is filed pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued a bill denial to the Petitioner on November 16, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's appeal on December 10, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 23, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 10, 2022.

## **II. FACTUAL BACKGROUND**

This appeal concerns the denial of payment for physical therapy provided on July 13, 2021, to an individual injured in an automobile accident in February 2021.

With its appeal request, the Petitioner submitted its treatment plan and notes for the therapy session at issue. The Petitioner stated that the injured person had neck pain when standing, reaching, bending and lifting.

In its reply, the Respondent stated that the treatment in question exceeds the guidelines of the American College of Occupational and Environmental Medicine (ACOEM). In addition, an opportunity was given to establish and reinforce an independent home exercise program.

## **III. ANALYSIS**

### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a licensed physical therapist in active clinical practice for 28 years. The IRO reviewer concluded, based on the submitted documentation, that the treatment provided to the injured person on the date in question was not medically necessary and was overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer wrote:

The most appropriate practice guidelines for the physical therapy treatments at issue are from Official Disability Guidelines (ODG), American Physical Therapy Association (APTA), and American College of Occupational and Environmental Medicine (ACOEM).

ODG state the following for cervical radiculopathy: up to 10 visits in 8 weeks are recommended for the medical management of this diagnosis. The ODG also state there should be a fading of treatment frequency (from up to 3 visits per week to 1 or less), plus active self-directed home PT as treatment progresses. When treatment duration and/or number of visits exceed the guideline, exceptional factors should be noted.

The APTA also states that the physical therapist concludes an episode of care when the goals and outcomes for the patient or client have been achieved, when the patient or client is unable to further progress towards goals, or when the physical therapist determines that the patient or client will no longer benefit from physical therapy.

Finally, American College of Occupational and Environmental Medicine (ACOEM) guidelines state that for Cervical and Thoracic Spine disorders, Physical Therapy,

Occupational Therapy or Other Professionals for subacute or chronic spine pain and/or more severely and/or debilitated patients may need 4 to 6 appointments to initiate and begin to reinforce an exercise program. Rehabilitation Therapy for cervical radiculopathy focuses on decreasing pain as well as on regaining mobility and strength in the affected region of the cervical spine and the corresponding arm and hand. Initial exercises may include isometrics, stretching, and/or gentle range of motion; aerobic exercise should be begun and progressed as tolerated. The individual should also be instructed in a home exercise program to complement supervised rehabilitation and trained to care for and protect the spine from recurrence of symptoms.

\* \* \*

The physical therapy session rendered on 7/13/21 was overutilized in both frequency and duration and not medically necessary.

Official Disability Guidelines:

The patient had 30 physical therapy visits in 16 weeks, far exceeding the recommended maximum 10 physical therapy visits in 8 weeks. The ODG also state there should be a fading of treatment frequency (from up to 3 visits per week to 1 or less), plus active self-directed home PT as treatment progresses; however, the patient continued to be treated at a high frequency of 3 times per week, even during the fourth month of treatment. The ODG state that when treatment duration and/or number of visits exceed the guideline, exceptional factors should be noted. However, there were no exceptional factors identified in the medical records submitted for review which would support the need to exceed ODG recommendation to such an extent.

American Physical Therapy Association:

Comparing data from 6/17/21 to 7/13/21, the patient was no longer benefitting from physical therapy. On 7/13/21, the NDI [neck disability index] score was unchanged from the previous month and still reported as 42%. The treating therapist reported the patient's lifting ability was 20 pounds (unchanged from 6/17/21), and the patient reported sleep was comfortable (no frequency reported on how many times he was waking up per night), and he had distal symptoms to elbow at least 2 times per day (however, not every day – unchanged from 6/17/21). The APTA also states that the physical therapist concludes an episode of care when the physical therapist determines that the patient or client will no longer benefit from physical therapy.

American College of Occupational and Environmental Medicine:

For diagnosis of cervical spine radiculopathy, for subacute or chronic spine pain and/or more severely and/or debilitated, patients may need 4 to 6 appointments to initiate and begin to reinforce an exercise program. The patient had 30 physical therapy visits, far exceeding the ACOEM recommendations.

The IRO reviewer recommended that the Director uphold Respondent's November 16, 2021 determination because the July 13, 2021 session was not medically necessary and represented overutilization in both frequency and duration.

#### IV. ORDER

The Director upholds the Respondent's November 16, 2021 determination.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox  
Director  
For the Director:

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**X** *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford